

Larry Latham  
1824 Keenlan Dr.  
Hernando, MS 38632

6/05/06 10:54:04  
BK 2 PG 204  
DESOTO COUNTY, MS  
W.E. DAVIS, CH CLERK

**TO: Aqua Works Pool**  
**DATE: January 3, 2006**  
**RE: Responses to items addressed in letter received 11/24/05**

I am in receipt of your invoice and letter dated November 23, 2005.

You provided me with the following proposal:

1. A written warranty on the pool bottom, that is not notarized only because you were trying to get this notice in the mail to me today. You also state I will get a copy notarized that is identical to this one and provide me with the original.  
To date this has not been received.
2. I accept your apology, and I too cannot believe it has come to this. When I deal with a professional company and pay for a service I expect that service to be performed and functioning. I also expect to be billed for items that I have asked for and have received. I do not expect to be invoiced for items not received.
3. I accept your offer to remove caulking and Drain-Rite and install correctly. However, I'm not sure I understand why you feel this is due to circumstances beyond your control. It is apparent the caulking was done inadequately.
4. I accept your offer to replace the spin jet fittings in the buddy seat. I'm happy to be informed that it is a very simple matter of unscrewing one fitting and screwing another in. It concerns me that if this is that simple, why this has not been done before this reached the level we are presently at.
5. The liner being repaired but not replaced. The statement that you cannot warranty lawn furniture from going into the pool during a storm. The liner cost for repair is approx. \$150.00, therefore I expect to be reimbursed for this expense.  
The statement that you cannot warranty lawn furniture from going into the pool during a storm: I believe you are mistaken. If the direct actions of you or your employees creates a situation which warrants the lawn furniture ending up in the pool, then you are indeed responsible. The lawn furniture was removed it's storage area under my patio, without permission, and used as a barrier. This was placed on the concrete around the pool and was not removed when it served its purpose. (This is detailed more in following pages.)
6. I accept your offer of sending me a copy of the final inspection as soon as you receive it. I would like to be informed of when you anticipate receiving this. I have been asking for this for 6 months.

Prepared By  
Larry Latham  
1824 Keenlan Dr. Hernando, MS  
901-649-4981

7. With the on-going problems not being resolved timely (if at all), I will not be making final payment until everything is corrected and functioning and the items requested received. **Per our contract: Page 2; Item Q ".....and the balance of 5% \$1,000 dollars when job has been completed". The job has not been completed.**

I would like to address the issues that I feel are in violation of our agreement:

- ❑ Per my contract with Aqua Works Pool, work was to begin in April 2005 and finished in April 2005.
  - To date work is not complete.
- ❑ Per my contract I was to receive 28 mil liner.
  - Aqua Works Pool attempted to install a 19 mil liner. I refused to accept this inferior liner. Aqua Works then order the correct liner – which took 2 additional weeks to receive. In your complaint you stated ordering the wrong liner was not your problem. I disagree as the correct liner was identified by me and was written down by you. The wrong liner was ordered by you or your staff, not me.
- ❑ Because the liner was not installed timely, the pool bottom and walls developed cracks. (Photos available for viewing if needed.) These had to be repaired which impairs the overall structure of the pool.
- ❑ The pool was losing water at a rate of approx. 1 inch per day. Aqua Works tried unsuccessfully from May 2005 to August 2005 to identify and fix the leak. After 3 months Aqua Works called Hawaiian Pools to come out and consult. Hawaiian Pools quickly identified the leak – an outlet flange was cracked from being over-tightened. Hawaiian Pools provided me the flange, which I have in my possession. This will be made available for your review should you want.
- ❑ In unsuccessful attempts by Aqua Works Pool to identify the water leak, concrete was removed around the pool. This was repaired months later. While the concrete work was excellent – it is apparent this section was repaired as the sealer put on did not match the remaining concrete around the pool – it was a different color. Also, the mix of rocks in the concrete does not match the remaining concrete. My only resolution is to reseal the entire pool area in order to obliterate the noticeable repaired area. (Photos taken and on file for review.)
- ❑ Aqua Works Pool put the sealer on this repaired area and took it upon themselves to take 2 wrought iron patio chairs (which were stacked and stored under the patio as the pool season was over) and placed them on either side of the repaired concrete. Apparently, this was done to identify this new area being sealed so no one would walk on it. This was done without my knowledge, nor my approval to utilize my patio chairs as such. The following day a severe storm

came and blew one of the chairs in the pool – tearing the liner. I hold Aqua Works Pool responsible for this action.

- Sealer takes approx. 3 hours to dry. If Aqua Works made the decision without discussing with me (the homeowner) to place these heavy chairs so close to the pool and use them as a barrier, Aqua Works Pool is responsible for removing them and placing them back where they were found.
- The chair was found at the bottom of the pool 3 days later, and only then found by a professional pool service came out to close my pool for the season. They identified the chair in the deep end as well as the torn liner caused by the chair. (Photos taken and on file for review.)

In response to your outstanding invoice:

- Sidewalk -- \$385.00
  - ❖ Aqua Works Pool ran out of concrete and attempted to make do. This resulted in the last 10 feet of my sidewalk turning into a huge mess. Shawn Gary, Owner/Installer was contacted and came out to assess. We agreed he was to knock off \$150.00 due to this mess. Therefore, the true balance left owing = \$235.00
- Drain-Rite site was installed. However, due to poor workmanship it is uneven and caulk is cracked up and water is seeping under the foundation of my house. (Photos taken and on file for review.)
- 2 Yards of Concrete (you state: This was called in as a favor – concrete was used in front flower bed area). \$172.00
  - ❖ This was never performed nor delivered.  
I contacted Shawn on his cell to inquire the price of 2 yards of concrete for my courtyard. He said it could be done and provided a price. This was never ordered, nor delivered to my residence. I had another concrete man, Lewis Layrock, do the work because we decided to use concrete dyed and a stone emblem placed in the middle. I personally witnessed Mr. Layrock mix the bags of cement in a portable mixer and add the dye. Mr. Layrock was paid for his services.
- Extra Electrical:

Added Circuit for Fountain	\$75.00
Added GFI at back of Pool	\$60.00

- ❖ I discussed with Shawn Gary, Owner/Installer, to install a circuit for a fountain. Shawn called his electrician on his cell phone with me standing beside him and inquired what this would cost. Shawn quoted me "it will not run over \$100.00".  
Therefore, I dispute the \$35.00 difference.

Based upon the written contract and the verbal contracts where pricing was quoted for the additional work, the following list is what is truly outstanding:

<b>Extra Concrete Decking:</b>	<b>\$1,650.00</b>
<b>Sidewalk (\$385.00 - \$150.00):</b>	<b>\$ 235.00</b>
<b>Extra electrical:</b>	<b>\$ 100.00</b>

**Drain Rite** is not functioning, once this is replaced and functioning then payment of \$175.00 will be made.

**2 Yards of Concrete:** This was not provided, therefore I am not responsible for payment.

***In response for your list of "Things Done at NO CHARGE":***

**Break Out and Haul Off Concrete Sidewalk:** When you quoted me a price to re-pour the sidewalk, was it not apparent that the old had to be broken up and hauled off? I can't fathom how you thought this was going to be re-poured with the existing concrete there.

**Spin Jets in Buddy Seat:** The Buddy Seat was included in my contract. Therefore, this is part of the original price. Jets are included in buddy seats from all your competitors. If they were not included with your company, this should have been outlined and in the contract.

**Our Time & Labor To Find Non-Existing Leak:** Your company is the expert in pool installation. Your company attempted for over 3 months to identify the leak. You called in Hawaiian Pools for a consult. Hawaiian Pools identified the problem within minutes and fixed it. The problem was caused by your company in the installation of the outlet flange. I cannot be held responsible for the ineptness of you or your workers.

**Cost of a Second Opinion from Hawaiian Pools on Leak:** Again, problem caused by your company; your company unable to identify; you are responsible.

To: Aqua Works Pool  
 December 22, 2005  
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**Tie in Backwash Line to Sewer System:** This is written on the "Pool Order Form" under EXTRAS: Tie in Backwash.

**Extra Steel & Footings for Concrete Decking:** This was not requested by me.

**MY PROPOSAL:**

Before final payment will be made all work on my pool will be complete and up to standard. I have outlined expectations:

1. 2 jets in buddy seat replaced and functioning properly. You state I was not charged for jets. I was not informed these were an additional option with a cost associated, but was under the impression they were part of the buddy seat. However, you installed them – therefore you are responsible they are functioning correctly.
2. Professional repair of pool liner tear. This was caused by the direct negligence of Aqua Works Pool. Aqua Works Pool took it upon themselves to utilize heavy wrought iron chairs as a barrier to protect an area of concrete recently repaired and sealed. This was done without approval from me, the homeowner, nor was the homeowner made aware of this action. Aqua Works neglected to return to the site and remove the chairs after the sealant dried.
3. Copy of final inspection – for my records.
4. Letter from Aqua Works Pools, signed by Shawn Gary, Owner, and notarized stating: Aqua Works will honor the warranty on all pool equipment and outlining what that warranty is.
5. Letter from Aqua Works Pools signed by Shawn Gary, Owner, and notarized stating: Warranty from all the cracks in movement in pool bottom **and walls** and the period of time it is covered. This is due to the delay in putting in the pool liner and filling with water, due to incorrect liner being ordered.

I am also notifying Aqua Works Pools I hold them responsible for payment of the following items:

1. Pool was drained by Aqua Works Pools to repair "non-existent" leak that they were unable to identify. Hawaiian Pools identified the leak at the outlet flange. Aqua Works Pools should have been able to identify this and correct the problem without draining the pool.

Water charge (copy on file for review if needed): \$37.88  
 13,930 gallons of water was wasted by this unnecessary drainage

2. Professional repair of liner: \$150.00

**ITEMS I'M NOT CHARGING AQUA WORKS POOLS FOR WHICH COST ME OUT OF POCKET:**

- ❑ Additional water charges for 4 months keeping the pool full while Aqua Works attempted to identify the leak.
- ❑ Non-use of pool for many months during the summer due to on-going problems.
- ❑ Expense of delay to postpone a wedding that was to be performed pool side. The concrete was busted up and missing for months. Therefore, the wedding could not be performed outside as planned.
- ❑ The daily aggravation and frustration of all the problems.

**OVERVIEW:**

It is apparent the contracted job has not been completed, as well as some completed items are not satisfactory. The problems have been on-going since April, 2005 (we are now in our 9<sup>th</sup> month).

I will **not** make final payment until the items outlined above are done and done correctly to my satisfaction along with the requested documents provided.

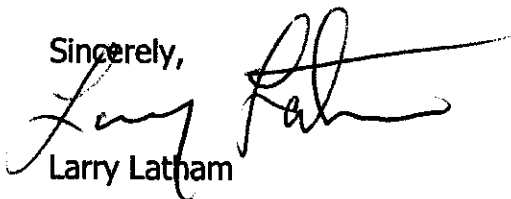
Also expected is a corrected final statement. I will not pay for items never received, which are on this last invoice (concrete around slide, concrete never received, inflated electrical work, etc.).

The investment and cost of a pool are quite significant. My expectations are to receive a good quality pool, at a price as stated in the contract, and to have it functioning correctly, and to pay for what I receive. All of this must be completed in a timely manner.

I'm certain we both will agree the timeliness has not been accomplished. In order to achieve the other items, it is imperative that the outstanding issues outlined in this response letter be completed and done so correctly.

One can only hope it is an oversight where you billed me for items not received or performed.

Sincerely,



Larry Latham

Cc: Better Business Bureau  
Consumer Protection Division of the Miss. Attorney General's Office

STATE OF: MISSISSIPPI

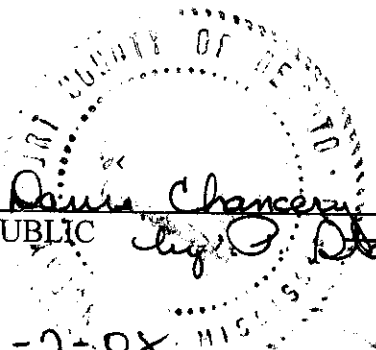
COUNTY OF: DESOTO

Personally appeared before me, the undersigned authority in and for the said  
County and State, on the 5th day of June, ~~2005~~<sup>2006</sup>,

Within my jurisdiction the within named

Larry Latham, who acknowledged that

~~(he)~~ (she) (they) executed the above and forgoing instrument.

  
W.E. Davis, Chancery Clerk  
NOTARY PUBLIC W.E. Davis, PC  
1-7-08  
MY COMMISSION EXPIRES

(SEAL)